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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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LOZANO *v.* MONTOYA ALVAREZ

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 12–820. Argued December 11, 2013—Decided March 5, 2014

When one parent abducts a child and flees to another country, the other parent may file a petition in that country for the return of the child pursuant to the Hague Convention on the Civil Aspects of International Child Abduction (Hague Convention or Convention). If the parent files a petition within one year of the child's removal, a court "shall order the return of the child forthwith." But when the petition is filed after the 1-year period expires, the court "shall . . . order the return of the child, unless it is demonstrated that the child is now settled in its new environment."

Respondent Montoya Alvarez and petitioner Lozano resided with their daughter in London until November 2008, when Montoya Alvarez left with the child for a women's shelter. In July 2009, Montoya Alvarez and the child left the United Kingdom and ultimately settled in New York. Lozano did not locate Montoya Alvarez and the child until November 2010, more than 16 months after Montoya Alvarez and the child had left the United Kingdom. At that point, Lozano filed a Petition for Return of Child pursuant to the Hague Convention in the Southern District of New York. Finding that the petition was filed more than one year after removal, the court denied the petition on the basis that the child was now settled in New York. It also held that the 1-year period could not be extended by equitable tolling. The Second Circuit affirmed.

Held: Article 12's 1-year period is not subject to equitable tolling. Pp. 7–16.

(a) The doctrine of equitable tolling, as applied to federal statutes of limitations, extends an otherwise discrete limitations period set by Congress. Thus, whether tolling is available is fundamentally a question of statutory intent. Because Congress "legislate[s] against a

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background of common-law adjudicatory principles," *Astoria Fed. Sav. & Loan Assn.* v. *Solimino*, 501 U. S. 104, 108, including equitable tolling, see *Holmberg* v. *Armbrecht*, 327 U. S. 392, 397, equitable tolling is presumed to apply if the period in question is a statute of limitations and if tolling is consistent with the statute, *Young* v. *United States*, 535 U. S. 43, 49–50. Pp. 7–8.

(b) In assessing whether equitable tolling applies to treaties, which are " 'compact[s] between independent nations,' " *Medellín* v. *Texas*, 552 U. S. 491, 505, this Court's "duty [i]s to ascertain the intent of the parties" by looking to the document's text and context, *United States* v. *Choctaw Nation*, 179 U. S. 494, 535. The parties to the Hague Convention did not intend equitable tolling to apply to Article 12's 1-year period. Pp. 8–16.

(1) There is no general presumption that equitable tolling applies to treaties. Though part of the established backdrop of American law, equitable tolling has no proper role in the interpretation of treaties unless that principle is shared by the parties to the "agreement among sovereign powers," *Zicherman* v. *Korean Air Lines Co.*, 516 U. S. 217, 226. Lozano has identified no such shared principle among the Convention signatories, and the courts of several signatories have explicitly rejected equitable tolling of the Convention. Thus, the American presumption does not apply to this multilateral treaty. The International Child Abduction Remedies Act, 42 U. S. C. §§11601–11610, which Congress enacted to implement the Convention, neither addresses the availability of equitable tolling nor purports to alter the Convention, and therefore does not affect this conclusion. Pp. 9–11.

(2) Even if the Convention were subject to a presumption that statutes of limitations may be tolled, Article 12's 1-year period is not a statute of limitations. Statutes of limitations embody a "policy of repose, designed to protect defendants," *Burnett* v. *New York Central R. Co.*, 380 U. S. 424, 428, and foster the "elimination of stale claims, and certainty about a plaintiff's opportunity for recovery and a defendant's potential liabilities," *Rotella* v. *Wood*, 528 U. S. 549, 555. Here, the remedy the Convention affords the left-behind parent—return of the child—continues to be available after one year, thus preserving the possibility of relief for that parent and preventing repose for the abducting parent. The period's expiration also does not establish certainty about the parties' respective rights. Instead, it opens the door to consideration of a third party's interests, *i.e.,* the child's interest in settlement. Because that is not the sort of interest addressed by a statute of limitations, the 1-year period should not be treated as a statute of limitations. *Young*, *supra,* at 47, distinguished. Pp. 11–13.

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(3) Without a presumption of equitable tolling, the Convention does not support extending the 1-year period during concealment. Article 12 explicitly provides for the period to commence on "the date of the wrongful removal or retention" and makes no provision for an extension. Because the drafters did not choose to delay the period's commencement until discovery of the child's location—the obvious alternative to the date of wrongful removal—the natural implication is that they did not intend to commence the period on that later date. Lozano contends that equitable tolling is nonetheless consistent with the Convention's goal of deterring child abductions, but the Convention does not pursue that goal at any cost, having recognized that the return remedy may be overcome by, *e.g.,* the child's interest in settlement. And the abducting parent does not necessarily profit by running out the clock, since both American courts and other Convention signatories have considered concealment as a factor in determining whether a child is settled. Equitable tolling is therefore neither required by the Convention nor the only available means to advance its objectives. Pp. 13–15.

(4) Lozano contends that there is room for United States courts to apply equitable tolling because the Convention recognizes that other sources of law may permit signatory states to return abducted children even when return is not available or required by the Convention. But this contention mistakes the nature of equitable tolling, which may be applied to the Hague Convention only if the treaty drafters so intended. For the foregoing reason, they did not. Pp. 15–16.

697 F. 3d 41, affirmed.

THOMAS, J., delivered the opinion for a unanimous Court. ALITO, J., filed a concurring opinion, in which BREYER and SOTOMAYOR, JJ., joined.

SUPREME COURT OF THE UNITED STATES

No. 12–820

MANUEL JOSE LOZANO, PETITIONER *v.* DIANA LUCIA MONTOYA ALVAREZ

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[March 5, 2014]

JUSTICE THOMAS delivered the opinion of the Court.

When a parent abducts a child and flees to another country, the Hague Convention on the Civil Aspects of International Child Abduction generally requires that country to return the child immediately if the other parent requests return within one year. The question in this case is whether that 1-year period is subject to equitable tolling when the abducting parent conceals the child's location from the other parent. We hold that equitable tolling is not available.

I

To address "the problem of international child abductions during domestic disputes," *Abbott* v. *Abbott*, 560 U. S. 1, 8 (2010), in 1980 the Hague Conference on Private International Law adopted the Convention on the Civil Aspects of International Child Abduction (Hague Convention or Convention), T. I. A. S. No. 11670, S. Treaty Doc. No. 99–11 (Treaty Doc.). The Convention states two primary objectives: "to secure the prompt return of children wrongfully removed to or retained in any Contracting State," and "to ensure that rights of custody and of access

under the law of one Contracting State are effectively respected in the other Contracting States." Art. 1, *id.,* at 7.

To those ends, the Convention's "central operating feature" is the return of the child. *Abbott*, 560 U. S., at 9. That remedy, in effect, lays venue for the ultimate custody determination in the child's country of habitual residence rather than the country to which the child is abducted. See *id.,* at 20 ("The Convention is based on the principle that the best interests of the child are well served when decisions regarding custody rights are made in the country of habitual residence").

The return remedy is not absolute. Article 13 excuses return where, for example, the left-behind parent was not "actually exercising" custody rights when the abducting parent removed the child, or where there is a "grave risk" that return would "place the child in an intolerable situation." Hague Convention, Arts. 13(a)–(b), Treaty Doc., at 10. A state may also refuse to return the child if doing so would contravene "fundamental principles . . . relating to the protection of human rights and fundamental freedoms." Art. 20, *id.*, at 11.

This case concerns another exception to the return remedy. Article 12 of the Convention states the general rule that when a court receives a petition for return within one year after the child's wrongful removal, the court "shall order the return of the child forthwith." *Id.,* at 9. Article 12 further provides that the court,

> "where the proceedings have been commenced after the expiration of the period of one year [from the date of the wrongful removal], shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment." *Ibid.*

Thus, at least in some cases, failure to file a petition for return within one year renders the return remedy

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